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Angela Hutchings
Chief Executive

AGENDA

Committee:	LICENSING SUB-COMMITTEE
Date and Time:	Friday, 25th November 2022
Venue:	Council Offices, Council Chamber
Membership:	Councillors Acott, S. Mumford and Palmer
Officers attending:	Jason Bishop – Corporate Legal Adviser Mel Harris - Head of Licensing & Safer Communities
Committee Enquiries:	Loretta Hill, Ext. No. 2427

PART I

(Business to be taken in public)

- 1. Appointment of Chairman**
- 2. Procedure for the Sub-Committee**
- 3. Appeal against suspension of a Private Hire Driver's Licence – Driver M**

The report of the Head of Licensing and Safer Communities is attached.

- 4. Decision**

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PROCEDURE FOR HEARING

1. Introductions

- a. Chairman introduces Panel Members to the applicant.
- b. Chairman identifies officers and their roles.
- c. Applicant identifies themselves, any representative and any accompanying persons. They also identify who intends to present the case.
- d. Objector(s) to be identified.

2. Case Summary by the Head of Licensing and Safer Communities

As shown at Agenda Item 3.

3. Objector(s) presents objection(s)

4. The Applicant's Submission

The applicant or their representative will submit their case

5. Questions from Panel

Opportunity for any questions from Panel to either side.

6. Adjournment

Proceedings will be adjourned while the Panel withdraw to consider its decision. During this time the Clerk will accompany the Panel to record the decision. The Committee may request the presence of the Legal Advisor to give them legal advice.

7. Decision

The Panel will reconvene, and the Chairman will announce the decision.

8. Conclusion

The Chairman will close the proceedings.

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LICENSING SUB COMMITTEE

25 November 2022

Subject: Decision regarding the suspension of a Private Hire Driver's Licence – Driver M

Report of: Head of Licensing and Safer Communities

1. Purpose of Report

To consider an appeal against the suspension of a Hire Driver's Licence

2. Background

2.1 Driver M has been licenced by Castle Point Borough Council as a Private Hire Driver since September 2021.

2.2 On 21 October 2022 the Licensing Team received information from Essex Police to confirm that Driver M had arrested by them on suspicion of:

"Conspire / Supplying Controlled Drug – Class A – Cocaine and Enter Arrangement to Facilitate the Acquisition / Retention / Use or Control of Criminal Property."

The Council's Hackney Carriage and Private Hire Licensing Policy states that:

Licence holders are required to notify the Licensing Unit in writing or by electronic means within 48 hours of an arrest and release, interview under caution, charge or conviction of any sexual offence, any offence involving dishonesty or violence and any motoring offence. This will result in a review as to whether the licence holder is fit to continue to do so. A licensed driver may be subject to their licence being suspended or revoked.

An appeal may be brought to the Head of Licensing against the licensing conditions within twenty one days from the date on which notice of the condition is served on the applicant to the Licensing Sub Committee."

The Licensing unit had not received notification from Driver M.

An extract of the Hackney Carriage and Private Hire Licensing Policy is attached at APPENDIX 1 of the report.

- 2.3 Driver M's Private Hire Driver's Licence was suspended on 21 October 2022 pending the outcome of the Police investigation.
A copy of the suspension letter is attached at APPENDIX 2 of the report.
- 2.4 An appeal from Driver M was received on 28 October 2022.
A copy of the appeal is attached at APPENDIX 3 of the report
- 2.5 The Hackney Carriage and Private Hire Policy was adopted to maintain the safety of public transport vehicles, drivers and paying customers. Failure to abide with the requirements of the Policy puts the safety of drivers and passengers at risk.
The legislation relating to the suspension of a licence falls under Section 61(1) (b) Local Government (Miscellaneous Provisions) Act 1976 (LGMPA). Under this Section a licensing authority can suspend, revoke or refuse to renew a driver's hackney carriage or private hire licence on any of the following grounds:

1. That he has since the grant of the licence—

been convicted of an offence involving dishonesty, indecency or violence; or
been convicted of an offence under or has failed to comply with the provisions of the Act of 1847 or of this Part of this Act;

2. that he has since the grant of the licence been convicted of an immigration offence or required to pay an immigration penalty; or

3. any other reasonable cause.

Under section 61(2B) a licensing authority has the power to revoke or suspend a hackney carriage or private hire driver's licence with immediate effect.

In addition to failure to comply with the Hackney Carriage and Private Hire Policy the information received brings into question whether Driver M is a fit and proper person.

3. 'Fit and Proper'

The definition of what is a fit and proper person is not defined in law however the generally accepted test is:

- Would you allow your son, daughter, mother, spouse or other person you care about to get into a vehicle with this person alone?

This definition was supported in the judgement by HHJ Silber in the case of Leeds City Council v Hussain which surrounds the suspension of a driver:

...'the purpose of the power of suspension is to protect the users of licensed vehicles and those who are driven by them and members of the public. Its

purpose is to prevent licences being given or used by those who are not suitable people taking into account their driving record, their driving experience, their sobriety, mental and physical fitness, honesty and that they are people who would not take advantage of their employment to abuse or assault people.'

4. Legal implications

Decisions in relation to the grant of a licence give rise to the obligations under the Human Rights Act 1998. The Council will therefore ensure that there is a review hearing before the Licensing Sub-Committee. It should be noted that Driver M has the right to appeal the decision made by the Council to the Magistrates Court if he is aggrieved by the decision of the Sub-Committee.

5. Options

The Sub-Committee is advised that it has the following options when determining this application:

- (i) The suspension remains in place until the outcome of the Police investigation and a further decision considered at that point.
- (ii) Reinstate the Private Hire Driver's Licence.

Recommendation

The decision of the Sub Committee is required following proper consideration of the application and any representations made to the Sub Committee.

Appendices

Appendix 1 – Extract of the Hackney Carriage and Private Hire Licensing Policy

Appendix 2 – Suspension Letter

Appendix 3 – Appeal letter

Background Papers:

CPBC Hackney Carriage and Private Hire Licensing Policy

Local Government (Miscellaneous Provisions) Act 1976

1. Criminal Offences

Licence holders are required to notify the Licensing Unit in writing or by electronic means within 48 hours of an arrest and release, interview under caution, charge or conviction of any sexual offence, any offence involving dishonesty or violence and any motoring offence. This will result in a review as to whether the licence holder is fit to continue to do so. A licensed driver may be subject to their licence being suspended or revoked.

A decision to refuse, suspend or revoke a licence will be referred to the Disclosure and Barring Service, if it is thought that the individual could present a risk of harm to a child or vulnerable adult.

Other convictions, cautions, penalty points and driving offences recorded since the completion of the application form for a licence must be reported to the licensing unit at the Council in writing or by electronic means within seven days of the event.

Licence holders must continuously maintain their DBS certificate through the DBS Update Service, costs associated with maintaining this subscription must be met by the licence holder. The council will use the update service to check the DBS status of drivers every 6 months. If the DBS update service membership is not maintained drivers will be required to submit a new enhanced DBS application every 6 months at their own expense.

2. Appeals

An appeal may be brought to the Head of Licensing against the licensing conditions within twenty one days from the date on which notice of the condition is served on the applicant to the Licensing Sub Committee.

An applicant disagreeing with the decision of the Licensing Sub Committee in respect of an application also has the right of appeal to the Magistrates Court.

21 October 2022

Dear Mr

Suspension of Private Hire Driver's Licence

We have received notification from Essex Police of your arrest on 7 October 2022.

Licensing authorities have a duty to ensure that any person to whom they grant a Hackney Carriage or Private Hire Driver's Licence is a 'fit and proper' person to hold a licence.

The Council's Hackney Carriage and Private Hire Licensing Police states:

"Licence holders are required to notify Licensing in writing or by electronic means within 48 hours of an arrest and release, interview under caution, charge or conviction of any sexual offence, any offence involving dishonesty or violence and any motoring offence. This will result in a review as to whether the licence holder is fit to continue to do so. A licensed driver may be subject to their licence being suspended or revoked."

We had not received any notification from yourself.

If convicted, the serious nature of the offences would mean you would no longer meet the Council's Conditions of Licence. Pursuant to Section 61(1) (b) Local Government (Miscellaneous Provisions) Act 1976 (LGMPA) your Private Hire Driver's Licence PHRD353 is suspended with immediate effect and you are not licenced to drive for private hire while the suspension is in place.

We will consider whether your licence should be reinstated once the Police investigation is concluded.

Please return your drivers identity badge and paper licence to our offices immediately.

Should you wish to appeal against the decision to suspend your licences this must be received in writing within 7 days from the date of this letter. This would be considered by our Licensing Sub Committee.

Yours faithfully



Melanie Harris MA BSc(Hons) MIOL
Head of Licensing and Safer Communities
01268 882480
licensing@castlepoint.gov.uk

WITH REF TO :

ESSEX,

PRIVATE HIRE PHRD353

With reference to your letter dated 28/10/22. I am really sorry I have not notified you of my arrest on the 07/10/22. I am still coming to terms with it myself and finding it hard to accept what has happened and thought I only needed to inform you if I was convicted.

I was delivering a 4 week Emergency Blue Light driving course up in Scotland for SAS (Scottish Ambulance Service) when Essex Police decided to execute a search warrant at my home address and gain entry to my property by using a chain saw and cutting my front door in half, from top to bottom.

It is alleged that I have been involved in the supply of class A drugs between April 2020 and June 2020, which I strongly deny, and apparently been linked to one of 8 other people known to have been using encrypted phones and involved in drugs and money laundering.

After being arrested and questioned, I am the only one who has been granted bail, pending further enquiries and a court case.

I can see how bad this looks, but am not guilty of the alleged allegations and convinced this will be proven when it goes to court, where I will be acquitted and found NOT guilty to all charges. Please can you find it in your hearts, to not suspend my licence and let me

Exius99A

carry on
trading as private hire until the court case. I consider
myself to be a fit and proper person and really need to
be working, to occupy my mind during this horrible
experience

I am a man of previous good character and always
thought in this country you were innocent until proven
guilty. I have already been punished enough, please give
me this chance to prove I am innocent and allow me to
keep my badges until I can prove this in court.

I look forward to hearing from you in the near future

Many Thanks,

Yours Sincerely

PRIVATE HIRE LICENCE PHRD



